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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

AUGUSTINE JAIMES MENDOZA,

Defendant and Appellant.

A108059

(Lake County Super.
Ct. No. CR901936)

Augustine Jaimes Mendoza appeals from a judgment entered on his plea of guilty. His counsel raises no issues and asks this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.)

On July 23, 2004, the People filed a complaint charging defendant with cultivation of marijuana (Health & Saf. Code, § 11358, count I) and possession of marijuana for sale (Health & Saf. Code, § 11359, count II). The complaint further alleged that defendant was armed with a firearm in the commission of count II (Pen. Code, § 12022, subd. (a)(1)). On August 13, 2004, defendant waived his right to a preliminary hearing and pled guilty to cultivating marijuana. The plea was entered with the understanding that defendant could be sentenced to a term up to three years in state prison and that the court would dismiss the remaining charges with a *Harvey*¹ waiver. Defendant also agreed to

¹ *People v. Harvey* (1979) 25 Cal.3d 754.

waive his rights pursuant to *Blakely v. Washington* (2004) 542 U.S. ____ [159 L.Ed.2d 403; 124 S.Ct. 2531].

On September 10, 2004, the court sentenced defendant to the lower term of 16 months in state prison. The court granted defendant 75 days of custody credits.

Defendant was represented by counsel. There are no meritorious issues to be argued. There was no error in the sentencing.

DISPOSITION

The judgment is affirmed.

RIVERA, J.

We concur:

KAY, P.J.

REARDON, J.